

Mr. Robert W. Johnson
April 22, 2002
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57-8 system. Because of the complexity of the Colorado River system, the model must make simplifying assumptions, such as average monthly flows. However, there can be large daily fluctuations and the extent and timing of fluctuations could vary with the proposed change in use and diversion point. This and other unavoidable errors could result in significant impacts that have not been captured in this analysis. Since the predictive accuracy of this model is uncertain, the Department recommends adding a monitoring component to the mitigation proposal in order to evaluate deviations from the predicted behavior and to stipulate that unanticipated significant impacts will be mitigated. The DEIS should identify and commit a conflict resolution process in the event of disagreement between the agencies regarding the quantification of unforeseen impacts.

57-10 The Department notes that the discussion of cumulative impacts does not include a specific discussion of the potential cumulative impacts to fish and wildlife not listed under ESA from future changes in water point diversions. The Department recently reviewed a DEIS from the International Boundary and Water Commission to divert 15,000 AFY of Mexico's water allotment to Tijuana using the Colorado River Aqueduct. Land use conversions from agriculture to municipal could result in future changes in water diversion points. Therefore the Department recommends analyzing potential future diversion point changes under cumulative impacts.

57-11 The Law of the River requires apportioned and surplus water be put to a beneficial use. Creating, enhancing or restoring aquatic, riparian and wetland habitats is not considered a beneficial use and thus restricts the Department's ability to develop projects to improve these essential habitats. Frequently non-consumptive use of flowing river water is the only option. Reducing the water flow in any reach can impact the agencies' ability to manage and improve these habitats. Therefore, the Department believes it is essential to analyze the potential direct and cumulative impacts from these reduced flows to habitat improvement projects from these reduced flows.

Specific Comments

Page 3.2-104 Change in water surface elevations

57-13 The Department does not agree with the statement that 10 to 20 year implementation period will allow plant roots to adjust to lower water levels. Plants generally have a maximum depth for roots. If water level drops below the plant's root zone, the plants will not be able to adjust and the area will no longer be suitable for that plant species.

The Department also disagrees with the philosophy that the long period of gradual implementation will reduce impacts. Although it is true that gradual impacts will reduce many impacts, it does not necessarily reduce all. Species have tolerance thresholds for different parameters, e.g., water temperature or water depth. If the threshold is exceeded the species cannot adapt. For example both California black rail and Yuma clapper rail have minimum water depth requirements. If the water levels drop below these minimums the habitat is no longer usable by these species.

Response to Comment S7-9

The EIR/EIS process is designed to identify, to the extent possible, the potential impacts of the Project as well as appropriate and feasible mitigation measures. We note that the Implementation Agreement for the HCP is expected to limit liability for unforeseen circumstances pursuant to the "No Surprises Rule" implementing Section 10 of the federal ESA. It is anticipated that the IID Board will evaluate the risks and costs of the Project before committing to proceed and that farmers will evaluate the advantages and disadvantages in the voluntary on-farm program before deciding to participate.

Response to Comment S7-10

The proposal by the IBWC to divert 15 KAF of Mexico's water allotment to Tijuana using the Colorado River Aqueduct relates to emergency situations (e.g., when there are outages in Mexico's system). Reclamation first entered into a contract for temporary emergency delivery of a portion of the Mexican Treaty Waters in the vicinity of the City of Tijuana, Mexico in 1972. The water is diverted through the Colorado River Aqueduct and through other facilities operated by California water agencies. Since 1972, water has been delivered to Mexico through the Colorado River Aqueduct as part of these emergency operations in 10 different years, in amounts as small as 240 AF and as large as 10,358 AF. Because of the intermittent nature of the project and the variable amounts of water involved, it is difficult, if not speculative, to estimate the cumulative impacts.

In addition, Section 3.2, Biological Resources, in the Draft EIR/EIS does discuss the impacts to species not carrying special designations and assesses the significance of these impacts relative to the significance thresholds provided in the document. Additionally, a habitat-based approach is used to address impacts to fish and wildlife species, and the mitigation measures identified would also reduce impacts to other non-listed species occupying the same habitats.

Response to Comment S7-11

Reclamation's analysis indicates that the overall changes in Colorado River flows caused by the Proposed Project would be small (a decrease in median annual water levels of 0.4 foot), which falls within the historic fluctuation of water levels for the area. Your comment about use of Colorado River water for creating, enhancing and restoring aquatic, riparian and wetland habitat is currently being addressed through the Multi-Species Conservation Program (MSCP) on the Lower Colorado River. Arizona Game and Fish Department is an active member of the MSCP.

The intent of the MSCP is to create, enhance, and restore aquatic, riparian, and wetland habitat within the floodplain of the Lower Colorado River. The MSCP intends to acquire a secure source of water as legally required by applicable law to accomplish the stated intent of the program.

Response to Comment S7-12

See Response to Comment S7-11.

Response to Comment S7-13

While there is no disagreement that a significant drop in groundwater would affect survival of established cottonwoods and willows and reduce habitat suitability, the reality is that the approximate 4.5 inches projected would occur over a period of 15 to 20 years. This, in a practical sense, would be a long enough duration for even the most shallow-rooted cottonwood or willow to follow. Indeed, when one looks at the cottonwood's and willow's method of becoming established naturally by seeding on newly exposed saturated substrate, the seedlings themselves have to be able to follow declining groundwater far more than 4.5 inches in the first season.

Page 3.2-104 Change in water surface elevations

The Department disagrees with the statement that recreation on the Colorado River will not be impacted. Reduced flows in backwaters have the potential to decrease the habitat value or eliminate the backwater as habitat for fish and waterfowl; weed infestations can eliminate the backwater from use by boaters. The Colorado River below Parker Dam is heavily used by anglers (355,000 angler use days in 1992), waterfowl hunters and boaters. The Department believes that any impact to recreational use on this stretch of the river is significant.

Page 3.2-105 to 106 Change in water surface elevations

This section acknowledges that the water transfer could have significant impacts to habitat in riparian and backwater marshes. For mitigation for these impacts this DEIS relies on conservation measures described in the BO. The Department notes that these measures are limited to impacts to species listed under ESA. The Department disagrees with the assumption that these measures will provide adequate mitigation for all species. We take particular exception to this contention in regard to sport fish. The measures in the BO for T&E fishes in many cases exclude any benefits for sport fish. As noted above, the Department has trust responsibilities for all fish and wildlife and has a policy of seeking mitigation for impacts to all species. For these reasons, the Department does not believe that the BO is sufficient mitigation for the impacts to all species of fish and wildlife.

Page 3.2-108 BR 3 & 4 Reduced acreage of Honey Mesquite and Screwbean Mesquite Bosque Communities

Both sections state that reductions in mesquite bosque habitats will have less than significant impacts because these habitats are not primary habitat for special status species. As stated above the Department has trust responsibilities for all species of fish and wildlife and as matter of policy supports mitigation at the 100 % level for impacts to all wildlife habitat. The lower Colorado River is an important travel corridor for migratory birds. Mesquite bosques are important habitat for neotropical migrants; species protected under the Migratory Bird Treaty Act. BR's Lower Colorado River Vegetation Map estimates mesquite bosques as only 7 % of the vegetation on the LCR. For these reasons the Department believes that any loss of these habitats is significant and must be mitigated.

Pages 3-2 108 to 111 Impacts BR 5 to 7

These sections only discuss impacts to special status species. As stated above the Department believes that this DEIS must analyze and mitigate for impacts to all species of fish and wildlife.

Page 3.2-113, 3.2.4.3, Impacts, Proposed Project, Lower Colorado River, Impact BR-8

The basis for 44 acres for restoration or creation of acreage of backwater habitat along the Colorado River is not clear. It is not clear that the same 44 acres of backwater habitat to be restored or created by Reclamation is sufficient in quantity and characteristics to mitigate

Response to Comment S7-14

The Proposed Action would result in only a small decrease in river flow. Given implementation of the full transfer, the water surface elevation associated with the average annual Parker Dam release would decrease a maximum of 0.4 feet in the reach between Parker and Imperial Dams, over more than a 20 year period. Recreational facilities, such as launch ramps, would not be adversely impacted, nor would boating safety. Impacts to sport fisheries and angler access are expected to be negligible. Impacts to waterfowl hunting are not considered substantial because only small areas would be affected, resulting in subtle habitat changes that would not adversely affect recreational opportunities.

Response to Comment S7-15

The evaluation of impacts to biological resources along the Lower Colorado River uses a habitat-based approach. Effects to different habitat types are quantified and effects to wildlife using these habitats are inferred from changes in habitat. While the southwestern willow flycatcher was a specific focus of the evaluation, other special-status species also were considered (see Impacts BR-5, -6 and -7). The analysis assumed that if the underlying habitat was adequately protected or mitigated for the most sensitive species (i.e., special-status species), it would be adequately protected or mitigated for less habitat-sensitive species. Table 3.2-34 in the Draft EIR/EIS presents the primary association and use of vegetation communities by selected wildlife species in the study area, showing that several species' habitat association overlaps sufficiently with that of the willow flycatcher. Impact BR-5 lists the other special-status species similarly affected by the potential loss of cottonwood-willow habitat.

Habitat-based approaches are commonly used to evaluate impacts for NEPA/CEQA evaluations. A more detailed species-specific analysis (as opposed to a habitat-based approach) is not necessary to reach meaningful conclusions regarding the potential impacts of the Proposed Project on biological resources along the Lower Colorado River.

Response to Comment S7-16

It would be expected that impacts to mesquite bosques would be slight or immeasurable due to the slight groundwater decline. Mesquite, especially, have been documented to follow groundwater decline in excess of 100 feet. We agree on the value of mesquite bosques and that loss of that type of habitat should be mitigated if it occurs.

Response to Comment S7-17

See Response to Comment S7-15.

Response to Comment S7-18

We agree with your statement about the marsh and backwater habitats. However, the definition of a backwater that was used in the analysis was off channel open water with the associated emergent vegetation. The 44 acres of mitigation will have all of the components of the open water and associated emergent vegetation, and will be designed to have the parameters required for razorback sucker.

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impacts under Impact BR-4, Impact BR-6, Impact BR-7, and Impact BR-8. While there are circumstances where marshes exist in backwater areas that also provide open water usable by razorback sucker, those conditions are not likely to support nesting Yuma clapper rail or California black rail. Yuma clapper rail require dense emergent vegetation and California black rail require shallow water fringe areas. It is not appropriate to assume that open water backwater conditions offset impacts to marsh species or conversely that mitigation for marsh species will support razorback sucker. To fully mitigate impacts to the species of concern the mitigation should address impacts to open water, backwater, and marsh. To lump all backwater habitat together is oversimplification and does not address the policy of the Arizona Game and Fish Commission that impacts to habitat be mitigated at a 100% level.

Pages 3.4.1 – 14 Land Use

The sections on land use in the LCR do not include Arizona and therefore this section is not complete.

Page 3.6-13 Lower Colorado River Recreational Resources

The Department does not agree with assessment that no recreational impacts to the Colorado River area would result from the proposed water transfer. We are concerned that reductions in open water and backwaters will impact areas currently available for use by anglers, waterfowl hunters and non-consumptive wildlife recreationists, in addition to recreational watercraft use. We are also concerned about impacts to water quality in open water and backwater areas resulting from changes in connectivity to the river. We note that DEIS does not propose mitigation for impacts to open water and the DEIS relies on the BO to mitigate for impacts to backwaters. The measures specified in the BO are directed at offsetting impacts to federally listed species and may not offset impacts fish and wildlife related recreation. For these reasons, we believe that the analysis in this DEIS is limited and should be rewritten to include an analysis of impacts to anglers, waterfowl hunters and non-consumptive wildlife recreationists from the projected reduction in open water area of river and backwaters. The department has statutory responsibility for the boating safety program at the state level in Arizona and we are interested in how changes to the river affect navigation and boating safety.

Again, the Department supports efforts to reduce California's water use in normal years to its apportioned amount. However, we believe this must be accomplished without significant impacts to the biological resources and recreational opportunities associated with the Colorado River. Again, we do not believe that this DEIS sufficiently analyzes these impacts and we recommend re-analysis of impacts pertaining to biological and recreational resources as identified above, including a formal Fish and Wildlife Coordination Act consultation. We look forward to working with your staff to ensure that our concerns are considered and addressed in the DEIS.

Response to Comment S7-19

Based on the significance criteria set forth in the Draft EIR/EIS, the Proposed Project would not affect land use in Arizona because the Proposed Project would not physically divide an established community in Arizona, conflict with an adopted land use plan by changing land use designations in Arizona, or conflict with an HCP or natural community conservation plan in Arizona.

Response to Comment S7-20

The Proposed Action would result in only a small decrease in river flow. Given implementation of the full transfer, the water surface elevation associated with the average annual Parker Dam release would decrease a maximum of 0.4 feet in the reach between Parker and Imperial Dams, over more than a 20 year period. Recreational facilities, such as launch ramps, would not be adversely impacted, nor would boating safety. Impacts to sport fisheries and angler access are expected to be negligible. Impacts to waterfowl hunting are not considered substantial because only small areas would be affected, resulting in subtle habitat changes that would not adversely affect recreational opportunities.

Response to Comment S7-21

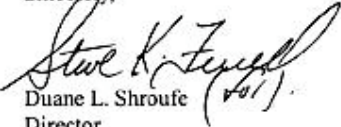
The EIR/EIS incorporates by reference Reclamation's analysis of LCR impacts from the IA EIS. We believe the IA EIS is the best forum for incorporating comments from AGFD because of its focus on the LCR. Reclamation initiated consultation with FWS for the IA in February 2001, and provided funding to FWS for mitigation recommendations under the FWCA. The Lead Agency remains open to any comments that AGFD may have regarding mitigation recommendations for effects on the Colorado River, which you believe may not be addressed by the biological conservation measures adopted by Reclamation. FWS has provided their FWCA recommendations in the form of a comment letter on the draft IA EIS.

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Please contact Mr. Russ Engel, Regional Habitat Program Manager, at (928) 342-0091 if you have any questions regarding this letter.

Sincerely,


Duane L. Shroufe
Director

cc: John Kennedy, Habitat Branch Chief, Phoenix
Larry Voyles, Regional Supervisor, Region IV, Yuma
Russ Engel, Habitat Program Manager, Region IV, Yuma
Elston Grubaugh, Resources Manager, Imperial Irrigation District ✓
Bruce Ellis, Chief, Phoenix Area Office, USBR
Curt Taucher, California Department of Fish and Game
David Harlow, Field Supervisor, Ecological Service, USFWS



California
Department of
Health Services
DIANA M. BONTÁ, R.N., Dr. P.H.
Director

State of California—Health and Human Services Agency
Department of Health Services



GRAY DAVIS
Governor

**Letter - S8. California Health and Human Services
Agency Department of Health Services. Signatory
- Michelle M. Brown.**

Response to Comment S8-1

Comment noted.

April 26, 2002.

Elston Grubaugh
Imperial Irrigation District
333 East Barioni Boulevard
P.O. Box 937
Imperial, CA 92251



Dear Mr. Grubaugh:

DRAFT HABITAT CONSERVATION PLAN - DRAFT ENVIRONMENTAL IMPACT
REPORT/ENVIRONMENTAL IMPACT STATEMENT FOR THE IMPERIAL
IRRIGATION DISTRICT WATER CONSERVATION AND TRANSFER PROJECT
(SCH# 99091142)

Thank you for the opportunity to review the above document. The Department of Health Services, Division of Drinking Water and Environmental Management (DHS) is responsible for water supply permits administered under the Safe Drinking Water Program.

In general, the environmental documentation would be considered adequate for our consideration under CEQA. If the Imperial Irrigation District completes the construction and operation of the proposed project, DHS may need to amend the current permit or provide a new water supply permit. Please contact Mr. Brian Bernados at our San Diego District Office in San Diego at 619/525-4159 for information pertaining to any questions you may have regarding permits, permit applications, or permit amendments.

Before a permit or amended permit can be issued, however, we will need a copy of (1) the resolution approving the project and adopting/certifying the Habitat Conservation Plan – Environmental Impact Report/Environmental Impact Statement (HCP – EIR/EIS), (2) the adopted/certified HCP – EIR/EIS, (3) all comments received and your responses, and (4) the Notice of Determination filed with the Governor's Office of Planning and Research.

S8-1



Do your part to help California save energy. To learn more about saving energy, visit the following web site:
www.consumerenergycenter.org/flex/index.html

Division of Drinking Water and Environmental Management
601 North 7th Street, MS 92, P.O. Box 942732, Sacramento, CA, 94234-7320
Phone #: (916) 323-6111, Fax #: (916) 323-1362

Elston Grubaugh
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Please contact me at (916) 327-4659 if you have any questions regarding our environmental review of this project.

Sincerely,

Michelle M. Brown

Michelle M. Brown
Environmental Review Unit

cc: State Clearinghouse
P.O. Box 3044
Sacramento, CA 95812-3044

Brian Bernardos, District Engineer
San Diego District Office
1350 Front Street, Room 2050
San Diego, CA 92101

DEPARTMENT OF FOOD AND AGRICULTURE

WILLIAM (BILL) J. LYONS, JR., Secretary

1220 N Street, Room 452
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 (916) 653-5658
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 April 26, 2002



Mr. Elston Grubaugh
 Imperial Irrigation District
 333 East Barioni Boulevard
 P.O. Box 937
 Imperial, CA 92251

Dear Mr. Grubaugh:

Subject: Draft Environmental Impact Report/Environmental Impact Statement (DEIR/S) and Draft Habitat Conservation Plan for Imperial Irrigation District (IID) Water Conservation and Transfer Project – SCH #1999091142

The California Department of Food and Agriculture (CDFA) has reviewed the DEIR/S for the referenced water transfer project. The Department's mission is the protection and promotion of agriculture in California. We offer the following comments on the project's potential agricultural impacts for your consideration.

CDFA finds that the document could better address several potentially significant agricultural resource impacts and mitigation opportunities. We recommend that the final EIR/S be revised to more adequately address the following points of analysis.

Environmental Setting and Project Description

The unique combination of California's warm Mediterranean, productive soils and high quality water has given this State's agricultural economy world stature. California is by far the Nation's leading agricultural state (\$27 billion in annual sales) and its number one agricultural exporter. The State produces approximately 350 different crops and employs one out of every ten Californian workers. In 1998, Imperial County produced over \$1 billion in farmgate sales, placing it in California's top ten agricultural counties. The most recent crop reports still show the County producing over a billion dollars in sales, even though it is no longer a top 10 county.

We recommend that the DEIR/S provide additional documentation of the agricultural setting in the water source area. Specifically, the final EIR/S should include:

1. The significance of crop production loss in terms of the percentage of the crops grown in the affected area relative to the statewide production of those crops;

Letter - S9. California Department of Food and Drug. Signatory - Steve Shaffer.

Response to Comment S9-1

Comment noted. Responses to the specific comments made in your letter regarding these issues are provided.

Response to Comment S9-2

Refer to Table S9-2 for data on Imperial County crop acreage as a percentage of California totals for the year 2000.

The quantity and priority of water rights held by IID are discussed in Chapter 1, Section 1.4.3, of the Draft EIR/EIS. The socioeconomic impacts of the Project, assuming the maximum amount of affected acreage, are presented in Section 3.14 of the Draft EIR/EIS.

The specific conservation methods to be implemented under the Proposed Project have not been determined. As noted in the Draft EIR/EIS in Section 2.2.3.1, the conservation program could include a potentially broad and varying range of conservation measures to provide maximum flexibility to the IID Board to adopt the program to changing circumstances, methods, and participants over the lengthy Project term. From the standpoint of socioeconomic impact estimation, the important factor is the total reduction in planted and harvested acreage, and the location where the reduction occurs within the IID water service area is not relevant. (Impacts to agriculture as a result of non-rotational fallowing may vary depending upon the status of fallowed land as Prime Farmland or Farmland of Statewide Importance. These impacts are described in the Agriculture Resources section of the Draft EIR/EIS, Section 3.5.) For modeling purposes, it was assumed that if fallowing is implemented, there would be reductions in the harvested acreage of the full complement of non-permanent crops historically grown. Refer to the Master Response on *Socioeconomics—Crop Type Assumptions for Socioeconomic Analysis of Fallowing* in Section 3 of this Final EIR/EIS for additional information on this assumption. The socioeconomic impacts of fallowing different crop groups are also presented in this Master Response.

From an agricultural resource viewpoint, the worst-case impact would be from non-rotational fallowing, which could result in significant, adverse impacts to agricultural resources as described in Section 3.5 of the Draft EIR/EIS.

Response to Comment S9-2 (continued)

Table S9-2
Imperial County Acreage as Percentage of State Total Acreage by Crop Type

Crop Name	<u>Imperial County</u> Acreage	<u>State Total</u> Acreage	<u>Imperial County as</u> Percentage of State Total
Asparagus Unspecified	5,575	33,121	17
Broccoli Fresh Market	11,349	89,415	13
Cabbage Head	908	9,971	9
Carrots Fresh Market	7,420	9,986	74
Carrots Processing	11,130	13,574	82
Cauliflower Fresh Market	3,943	29,580	13
Corn Sweet All	5,921	25,676	23
Cotton Lint Unspecified	9,295	108,696	9
Cottonseed	9,295	23,306	40
Dates	1,013	6,508	16
Field Crops Seed Misc.	932	25,072	4
Field Crops Unspecified	13,799	185,582	7
Fruits and Nuts Unspecified	519	37,479	1
Grapefruit All	951	15,476	6
Hay Alfalfa	182,451	1,352,068	13
Hay Other Unspecified	42,059	205,552	20
Hay Sudan	55,045	77,540	71
Lemons All	2,605	50,256	5
Lettuce Head	14,766	122,787	12
Lettuce Leaf	7,688	75,910	10
Melons Cantaloupe	12,421	58,117	21
Melons Honeydew	2,293	16,670	14
Melons Watermelon	1,254	11,658	11
Onions	10,962	46,445	24
Oranges Valencia	515	71,235	1
Pasture Irrigated	144,500	1,035,161	14
Potatoes Irish All	2,109	42,062	5
Salad Greens Nec.	616	8,304	7
Seed Alfalfa	26,462	60,641	44
Seed Bermuda Grass	29,383	30,498	96
Seed Other (No Flowers)	20,975	29,046	72
Seed Veg and Vinecrop	3,812	31,913	12
Sugar Beets	31,475	97,974	32
Tangerines & Mandarins	356	6,399	6
Tomatoes Fresh Market	547	38,650	1
Tomatoes Processing	316	297,631	0
Vegetables Unspecified	4,332	136,532	3
Wheat All	55,504	577,624	10

Source: California County Agricultural Commissioners Data, Year 2000